IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4114 OF 2005

Halimunnissa w/o Haji Abdul Hameed..Petitioner
thr.C.P.A.Mukhar Ahmed Haji Abdul Hameed

versus

Najir Ahmed Abdul Shakur & ors .. Respondents

Mr.R.M.Haridas i.b Mr P.N.Joshi for Petitioner

None for Respondents

CORAM : D.G.KARNIK, J

DATED : 27th January, 2006

P.C.

1. Heard learned counsel for the petitioner.

2. By this petition, the petitioner challenges the judgment and order dated 1st January, 2004 passed by the Additional District Judge, Malegaon allowing the appeal and remanding the suit to the trial Court for fresh hearing in accordance with law.

3. The petitioner-landlord filed a suit a for possession against the respondents. Despite

opportunity being given to the respondents to cross examine the petitioner's witnesses, the respondents failed to do so and hence the suit was decreed. In appeal, the appellate Court has remanded the matter back to the trial Court to give an opportunity to the respondents to cross examine the plaintiff and thereafter decide the suit. The appellate Court has awarded special costs of Rs.1000/- for granting this opportunity to the respondents.

4. After taking an over all view of the matter, I am of the view that substantial justice has been done. No doubt, the respondents had the opportunity of cross examining the petitioner. For sufficient reasons, the appellate Court has thought it fit to grant opportunity to the respondents to cross examine the plaintiff. The view taken by the appellate Court is a possible view and in any event promotes justice.

5. In the circumstances, no interference is called for in exercise of writ jurisdiction under Article 227 of the Constitution of India. Petition is accordingly rejected summarily. The trial Court is however directed to dispose of the suit expeditiously and in any event within a period of three months from today.

(D.G. KARNIK, J)